

\* The original of this document contains information which is subject to withholding from disclosure under 5 U.S.C. 552. Such material has been deleted from this copy and replaced with XXXXXX's.

February 6, 2006

**DECISION AND ORDER  
OFFICE OF HEARINGS AND APPEALS**

**Hearing Officer's Decision**

Case Name: Personnel Security Hearing

Date of Filing: August 4, 2005

Case Number: TSO-0278

This Decision concerns the eligibility of XXXXXX XXXXXX XXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."<sup>1/</sup> A Department of Energy (DOE) Operations Office denied the individual's request for an access authorization under the provisions of Part 710. This Decision considers whether, on the basis of the evidence and testimony presented in this proceeding, the individual should be granted an access authorization. As set forth in this Decision, I have determined that the individual should be granted a security clearance.

**I. Background**

The provisions of 10 C.F.R. Part 710 govern the eligibility of individuals who are employed by or are applicants for employment with DOE, contractors, agents, DOE access permittees, and other persons designated by the Secretary of Energy for access to classified matter or special nuclear material. Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the

---

<sup>1/</sup> An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to variously in this Decision as an access authorization or security clearance.

common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

The individual requested a security clearance from DOE after gaining employment with a DOE contractor. However, the local DOE security office (DOE Security) initiated formal administrative review proceedings by informing the individual that his request for an access authorization was being denied pending the resolution of certain derogatory information that created substantial doubt regarding his eligibility. This derogatory information is described in a Notification Letter issued to the individual on July 15, 2005, and falls within the purview of potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsections h, j and l. More specifically, the Notification Letter alleges that the individual has: 1) "an illness or mental condition which in the opinion of a psychiatrist causes, or may cause, a significant defect in judgment and reliability [of the individual]"; 2) "[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist as alcohol dependent or as suffering from alcohol abuse," and 3) "engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of national security." 10 C.F.R. §§ 710.8(h), (j) and (l) (Criterion H, Criterion J and Criterion L, respectively). The bases for these findings are summarized below.

With regard to Criteria H and J, the Notification Letter states that on February 4, 2005, the individual was evaluated by a DOE consultant-psychiatrist (DOE Psychiatrist) who issued a report in which he diagnosed the individual with Substance Abuse, Alcohol (Alcohol Abuse), based upon diagnostic criteria set forth in the *Diagnostic and Statistical Manual of the American Psychiatric Association, IVth Edition TR (DSM-IV TR)*. According to the DOE Psychiatrist, this is a mental condition that causes or may cause a significant defect in the individual's judgment or reliability. The DOE Psychiatrist further determined that the individual is a user of alcohol habitually to excess.

Under Criterion L, the Notification Letter states that information in the possession of DOE Security indicates that the individual used a number of illegal drugs from 1994 to 2001, and sometimes drove and reported to work while under the influence of marijuana. In addition, the Notification Letter states that the individual was arrested as an adolescent for stealing eye drops from a pharmacy and, in February 2000, the individual was terminated from employment at a department store for stealing \$300 worth of merchandise.

In a letter received by the DOE Office of Hearings and Appeals (OHA) on August 4, 2005, the individual exercised his right under Part 710 to request a hearing in this matter, 10 C.F.R. § 710.21(b), and on August 10, 2005, I was appointed as Hearing

Officer. After conferring with the individual and the appointed DOE Counsel, 10 C.F.R. § 710.24, I established a hearing date. At the hearing, the DOE Counsel called the DOE Psychiatrist as DOE Security's sole witness. Apart from testifying on his own behalf, the individual called as witnesses two friends, his manager, his psychiatrist, his wife and his mother. The transcript taken at the hearing will be hereinafter cited as "Tr." Various documents that were submitted by the DOE Counsel will be cited as "DOE Exh." and those submitted by individual cited as "Ind. Exh."

### Summary of Findings

The following factual summary is essentially uncontroverted. However, I will indicate instances in which there are disparate viewpoints regarding the information presented in the record.

The individual accepted a position with a DOE contractor in March 2004, and soon thereafter, in April 2004, submitted answers to a Questionnaire for National Security Positions (QNSP) to obtain a security clearance. However, derogatory information presented in the QNSP and during the background investigation of the individual resulted in a determination by DOE Security to conduct a Personnel Security Interview (PSI) with the individual. Below is a summary of the derogatory information revealed by the individual's QNSP, background investigation and PSI.

The individual began using illegal drugs in 1994 during his senior year in high school, first experimenting with marijuana. Within a few months, the individual was using marijuana on a weekly basis. During this time, the individual was arrested for shoplifting a bottle of Visine eye drops from a pharmacy. The individual wanted the Visine to conceal his use of marijuana from his parents. The individual was taken to a juvenile detention center by the police and later released into the custody of his parents.

Upon entering college, the individual's use of marijuana escalated to at least once a week and often as many as three to five times per week. The individual also began to experiment with a number of other illegal drugs, including cocaine, mushrooms, LSD, methamphetamine, and heroin. While the individual engaged in only incidental use of some of these illegal drugs, the individual estimated during the PSI that he used LSD 100 times from 1994 to 1996, and used cocaine 60 times from 1997 to 1998. In addition, the individual admitted to illegally using the prescription drug Codeine approximately 20 times from 1997 to 1998. However, marijuana remained the individual's drug of choice. The individual estimated that he used marijuana 2000 times during the six-year period 1995-2000. The individual admitted that he worked under the influence of marijuana when he was employed as a telemarketer from 1995-1996. The individual further admitted to sometimes selling small quantities of drugs to his friends to help finance his purchase of more drugs.

In 2000, the individual had another incident of theft. At that time, the individual was in his senior year in college approaching graduation, and was employed as an assistant manager at a department store. Employees of the store were allowed to purchase merchandise through the service desk. During the PSI, the individual explained that he wanted to purchase six CD's, a video game magazine and a tee shirt, but failed to do so before the service desk cash register closed. The individual said that he took the merchandise home planning to pay for the merchandise the next day. However, the individual never paid for the merchandise, which totaled approximately \$300 in value. Subsequently, during a security audit of employees conducted by the store, the individual admitted to taking the merchandise. The individual returned the merchandise with payment. The store terminated the individual's employment but elected not to prosecute the individual. According to the individual, his termination from the department store was a wake-up call for him and he made the decision to turn his life around. The individual turned to a more serious practice of his religious faith and decided to stop using illegal drugs.

The PSI also raised security concerns with regard to the individual's use of alcohol. The individual first drank alcohol when he was seventeen years old and drank very little before entering college. However, the individual stated during the PSI that during his latter college years, he drank to the point of intoxication two to three times per month. The individual stated that he drank more often after he turned 21, usually a six-pack of beer a week with an additional three to six beers on the weekend in some instances. The individual reported that he regularly drank to become intoxicated during this time and sometimes came to work in a hung over condition. According to the individual, this changed in 2001, when he was married at age 24. The individual reported during the PSI that following his marriage, he typically would drink one to two beers once or twice a week and on weekends, and three to four beers on special occasions.

Due to unresolved security concerns about the individual's history of illegal drug use and consumption of alcohol, DOE Security referred the individual to the DOE Psychiatrist who reviewed the individual's personnel security file and performed a psychiatric interview and evaluation of the individual on February 4, 2005. In his report issued on February 10, 2005, the DOE Psychiatrist set forth his opinion that while the individual met the *DSM-IV TR* criteria for Substance Abuse, Marijuana, from 1995 to 2000, the individual no longer met those criteria. However, the DOE Psychiatrist found that the individual did meet the criteria for Substance Abuse, Alcohol and further that the individual is a user of alcohol habitually to excess. In the view of the DOE Psychiatrist, the individual has in recent years substituted alcohol abuse for his prior abuse of illegal drugs, most notably marijuana. The DOE Psychiatrist further states in his report that the individual's Alcohol Abuse is an illness which causes or may cause a significant defect in the individual's judgment or reliability, until such time as the individual is able to demonstrate adequate evidence

of rehabilitation or reformation. In this regard, the DOE Psychiatrist recommended either of the following as evidence of rehabilitation: 1) total abstinence from alcohol and non-prescribed controlled substances for two years with 100 hours of attendance at Alcoholics Anonymous (AA) with a sponsor over a minimum of one year, or 2) total abstinence for two years with satisfactory completion of a professionally led, alcohol treatment program, with aftercare, over a minimum of six months. As adequate evidence of reformation, the DOE Psychiatrist recommended two years of abstinence if the individual completes either of the two rehabilitation programs, or three years of abstinence if he does not.

## II. Analysis

A DOE administrative review proceeding under 10 C.F.R. Part 710 is not a criminal matter, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. *See Personnel Security Hearing*, Case No. VSO-0078, 25 DOE ¶ 82,802 (1996). In this type of case, we are dealing with a different standard designed to protect national security interests. A hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). Once DOE Security has made a showing of derogatory information raising security concerns, the burden is on the individual to come forward at the hearing with evidence to convince the DOE that granting or restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). This standard implies that there is a strong presumption against the granting or restoring of a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my opinion that the individual should be granted an access authorization since I conclude that such granting would not endanger the common defense and security and would be clearly consistent with

the national interest. 10 C.F.R. § 710.27(d). The specific findings that I make in support of this determination are discussed below.

A. Criteria H & J; Mental Conditions, Use of Alcohol

(1) Derogatory Information

In his report, the DOE Psychiatrist diagnosed the individual with Alcohol Abuse based upon diagnostic criteria set forth in the *DSM-IV TR*. DOE Exh. 5 at 31-32. The *DSM-IV TR* provides that a diagnosis of Alcohol Abuse is supported when the individual manifests one of four behaviors within a twelve-month period: 1) recurrent failure to fulfill major role obligations at work, school or home, 2) recurrent use in situations in which it is physically hazardous, 3) recurrent substance-related legal problems, and 4) continued use despite social or interpersonal problems. *See id.* at 31. In the case of the individual, the DOE Psychiatrist determined that the individual met the fourth criterion (Criterion A4) based upon statements made by the individual during the psychiatric interview indicating that the individual's drinking had caused marital difficulties. *Id.* at 26.

The DOE Psychiatrist also determined in his report that during the year prior to his evaluation of the individual in February 2005, the individual was an abuser of alcohol habitually to excess. *Id.* at 32. The DOE Psychiatrist explained at the hearing that his opinion in this regard was based upon information provided by the individual during his psychiatric interview that he became intoxicated an average of six times during the preceding year by drinking five beers within a 1½ to 2 hour period, and that he had experienced six hangovers. Tr. at 96; DOE Exh. 5 at 25-26. According to the DOE Psychiatrist, this constitutes "strong evidence" that the individual was an abuser of alcohol habitually to excess in view of the individual's past history of drug and alcohol abuse. Tr. at 96.

In other DOE security clearance proceedings, Hearing Officers have consistently found that a diagnosis related to excessive alcohol use raises important security concerns. *See, e.g., Personnel Security Hearing*, Case No. VSO-0079, 25 DOE ¶ 82,803 (1996) (affirmed by OSA, 1996); *Personnel Security Hearing*, Case No. VSO-0042, 25 DOE ¶ 82,771 (1995) (affirmed by OSA, 1996); *Personnel Security Hearing*, Case No. VSO-0014, *aff'd*, *Personnel Security Review*, 25 DOE ¶ 83,002 (1995) (affirmed by OSA, 1995). As observed in these cases, an individual's excessive use of alcohol might impair his judgment and reliability, and his ability to control impulses. These factors amplify the risk that the individual will fail to safeguard classified matter or special nuclear material. In the present case, the DOE Psychiatrist's diagnosis of Alcohol Abuse is coupled with his observation that, at the time of his evaluation, the individual was a user of alcohol habitually to excess. DOE Exh. 5 at 32.

Based upon the diagnosis and findings of the DOE Psychiatrist, I find that DOE Security properly invoked Criteria H and J in suspending the individual's security clearance. Accordingly, I will turn to whether the individual has presented sufficient evidence of rehabilitation or reformation to mitigate the security concerns of DOE.

## (2) Mitigating Evidence

The individual has adduced substantial evidence in mitigation of the security concerns associated with his use of alcohol. I note initially that the individual has never had an alcohol-related incident, e.g, a DWI arrest. Instead, the derogatory information that has raised a security concern is based entirely on the individual's self reporting. According to the individual, his open and honest confession of his past use of drugs and alcohol is indicative of his determination in 2000 to change and live a life consistent with his religious and moral convictions. Tr. at 8, 157-58. The individual maintains that his drinking has subsided since that time, particularly after he was married in 2001. Tr. at 157-58. The individual testified that he further reduced his drinking in February 2005 after seeing the DOE Psychiatrist and, in July 2005, made the decision to stop drinking altogether. Tr. at 124-25, 179-81. The individual presented the testimony of several witnesses, including his wife, mother and close friends, to corroborate his change of lifestyle and abstinence from alcohol. However, I will first turn to the psychiatric evidence and testimony presented by the individual, since they will serve to narrow the issues regarding the individual's use of alcohol.

### (a) Criterion H, Alcohol Abuse

In October 2005, the individual was evaluated by a psychiatrist at his healthcare provider (Healthcare Psychiatrist). While the Healthcare Psychiatrist did not testify at the hearing, he issued a report submitted into the record by the individual finding that "[the individual] does not meet this diagnostic criteria [for Alcohol Abuse] and indeed has been able to discontinue the use of alcohol entirely without significant sequelae." Ind. Exh. 6 at 4. This diagnostic conclusion was shared by a second psychiatrist (Individual's Psychiatrist) who also evaluated the individual and issued his report in October 2005. Ind. Exh. 1.

The Individual's Psychiatrist did testify at the hearing and offered his own reasonable explanation of the different conclusion reached by the DOE Psychiatrist. The Individual's Psychiatrist agreed that the individual may have met the criteria for Alcohol Abuse in 2000-2001,<sup>2/</sup> but firmly disagreed that the individual meets that

---

<sup>2/</sup> The individual readily admitted to both the DOE Psychiatrist and the Individual's Psychiatrist that he often drank to excess while in college. According to the DOE Psychiatrist, the individual reported that he was intoxicated 40-50 times during his 1998-99

(continued...)

diagnosis at this time. Tr. at 57-58. The Individual's Psychiatrist maintained that the opinion of the DOE Psychiatrist was based upon his mistaken belief, prompted by a statement made by the individual, that the individual had "arguments with [his] spouse about consequences of intoxication" and that the individual therefore satisfied Criterion A4 of the *DSM-IV TR* criteria. Tr. at 59-60. Unlike the DOE Psychiatrist, however, the Individual's Psychiatrist actually called and interviewed the individual's wife. The Individual's Psychiatrist testified that "after speaking to with his wife, I don't think it's close." Tr. 66. The individual's wife also testified at the hearing and definitively confirmed that there was no foundation for the DOE Psychiatrist's supposition that she had quarrels with the individual over his use of alcohol. Tr. at 120, 122-23.

After hearing the testimony of the individual's wife and the Individual's Psychiatrist, the DOE Psychiatrist acknowledged that his diagnosis of Alcohol Abuse, based upon Criterion A4, was "weak" and promptly withdrew the diagnosis at the hearing. Tr. at 83, 85. I therefore find that the individual does not have a mental condition which causes or may cause a defect in his judgment and reliability, and accordingly, that the individual has fully mitigated the concerns of DOE Security under Criterion H. However, the withdrawal by the DOE Psychiatrist of his Alcohol Abuse diagnosis does not mitigate all of the security concerns associated with the individual's use of alcohol. As set forth below, the DOE Psychiatrist maintained his opinion that the individual is a user of alcohol habitually to excess and is without adequate evidence of reformation.

#### (b) Criterion J, Use of Alcohol Habitually to Excess

The DOE Psychiatrist opined during his testimony that while the individual does not suffer from Alcohol Abuse, the individual was an abuser of alcohol habitually to excess during the year preceding their interview. While the information relied upon by the DOE Psychiatrist in making this assessment is somewhat convoluted, *see* Tr. at 87-88, the DOE Psychiatrist ultimately summarized that his determination was based upon information that the individual had become intoxicated approximately six times during the preceding year and admitted to having had six hangovers. Tr. at 96. "Intoxication" was apparently based upon the definition given by the individual during their interview as the point where he would legally be unable to drive, .08 in the State concerned. *See* DOE Exh. 5 at 24; Tr. at 209.

The DOE Psychiatrist conceded that "use of alcohol habitually to excess" is "not a medical diagnosis" requiring formal treatment. Tr. at 85-86. The DOE Psychiatrist further acknowledged that the individual had substantially reduced his drinking

---

2/ (...continued)  
college year. Tr. at 189; *see* DOE Exh. 5 at 26.



subsequent to their interview, had been completely abstinent for three months prior to the hearing, and now had substantial religious and family supports in place. Tr. at 94, 100. Notwithstanding, the DOE Psychiatrist expressed his opinion that the individual required a minimum of one year of abstinence to demonstrate adequate evidence of reformation and a low probability of relapse. Tr. at 99-100. In this regard, the DOE Psychiatrist stated that “my concept of low is that the probability of relapse in the next five years is ten percent or less, that’s how I define low, because the DOE doesn’t define it, but at least that’s how I define it.” Tr. at 94.

Again, the Individual’s Psychiatrist expressed a contrary view. In his report, the Individual’s Psychiatrist similarly noted that “drinking habitually to excess” is not a medical term and is difficult to define. Ind. Exh. 1 at 4. The Individual’s Psychiatrist expressed the opinion, however, that “[r]egarding drinking to excess, I cannot say that [the individual] does that either. Certainly he has binge drank in the past 2 years, which is a risk factor for problem drinking, but without a definition of habitually to excess I cannot say that 4 times a year where his blood alcohol may have been over the legal limit for intoxication for driving is habitually to excess.” *Id.* at 5.<sup>3/</sup> The Individual’s Psychiatrist affirmed his opinion at the hearing that the individual is not a user of alcohol habitually to excess, Tr. at 56, and while the individual drank excessively during his college years and prior to getting married in 2001, “the probability of [the individual] returning to that is quite low. . . . very low at this point.” Tr. at 94. The Individual’s Psychiatrist based this opinion upon how the individual has matured since his college years and has responded to “the natural feedback he gets in the world, his involvement in his activities, his religious activities, church activities and family responsibilities.” Tr. at 98-99.

I have considered the conflicting expert testimony presented on this matter. Unlike a medical diagnosis of Alcohol Abuse or Alcohol Dependence, I need not defer to the opinion of the DOE Psychiatrist that an individual is an unacceptable security risk as an unreformed abuser of alcohol habitually excess, particularly where, as here, another psychiatrist has offered different conclusions based upon more compelling evidence. *See, e.g., Personnel Security Hearing*, Case No. VSO-0537 (September 10, 2003); *Personnel Security Hearing*, Case No. TSO-0236 (December 22, 2005).<sup>4/</sup> In the present

---

<sup>3/</sup> The Individual’s Psychiatrist determined that the individual had become intoxicated four times during the year preceding his evaluation by the DOE Psychiatrist based upon a response given by the individual to the DOE Psychiatrist that he consumed five drinks in 1½ hours three to four times over that period. *See* DOE Exh. 5 at 25. However, the DOE Psychiatrist extrapolated that the individual had become intoxicated approximately six times during the year, using other information provided by the individual. Tr. at 96.

<sup>4/</sup> In addition, I am not bound as Hearing Officer to adhere to the DOE Psychiatrist’s singular  
(continued...)

case, I find that the record amply supports a finding that the individual is not now, and has not been in recent years, a user of alcohol habitually to excess, and that there is minimal likelihood that the individual will return to problematic drinking in the future.

The individual was very convincing in his testimony that his dismissal from the department store in 2000 marked a turning point of his life. The individual was open and forthright in admitting that “during my college years, I was very naive, I was very immature and made a lot of poor decisions,” but the individual asserts that now he is “a completely different person.” Tr. at 155. The individual testified that immediately following his termination from the department store, he met with a family friend (Family Friend) who is a church leader and close friend of the individual’s parents. Tr. at 156. The individual established an “accountability relationship” with the Family Friend whereby the individual confessed all of his illicit behavior in the past, and committed to living a life consistent with their religious beliefs. *Id.* The individual further testified that since marrying in 2001, his wife “has been a strong influence in my life to continue this transformation.” Tr. at 158.

Regarding his use of alcohol, the individual testified that he may have somewhat inflated his use of alcohol in recent years to the DOE Psychiatrist, in order to be completely honest. Tr. at 159. The individual does not believe that he ever drank habitually to excess or had a drinking problem during the time period cited by the DOE Psychiatrist. Tr. at 159-60. The last incident during which the individual recalls that he became intoxicated was in August 2004, during a trip to Las Vegas when he consumed five beers in two hours. Tr. at 183; *see* DOE Exh. 3 at 6; Ind. Exh. 1 at 4. The individual stated that he made the decision to further reduce his drinking following his psychiatric interview in February 2005, and to stop drinking altogether in July 2005. Tr. at 161, 178-79. According to the individual, his decision to quit drinking was a decision arrived at with his wife following a trip to visit some old friends who drank excessively: “When I . . . observed my friends drinking, I came to my wife and said, ‘I’m done.’ She said, ‘Great, I’ll support you.’” Tr. at 178.

The individual’s account was corroborated by other testimony presented at the hearing. The Family Friend confirmed the individual’s testimony regarding their “accountability relationship” that they established in 2000 and remains to this day. Tr. at 33-34. The Family Friend explained how the individual has now become a youth leader in his church, and that he sees the individual on a weekly basis working together as youth leaders. Tr. at 49-50. According to the Family Friend, the individual

---

<sup>4/</sup> (...continued)

judgment in this case that a less than 10 percent probability of relapse is required in order to establish eligibility for a security clearance. *See Personnel Security Hearing*, Case No. TSO-0273 (January 10, 2006) at 16.

has proven that he is a responsible leader and has displayed behavior consistent with their religious beliefs to the youth group he leads. Tr. at 35. Over the period of their close relationship, the Family Friend has seen no indication that the individual has a drinking problem or returned to using illegal drugs. Tr. at 33-35. The individual confided in the Family Friend concerning his decision to stop drinking. Tr. at 36. The Family Friend believes the individual is honest, reliable and trustworthy, and is convinced that the individual would tell him if he resumed drinking. Tr. at 36-37.

The individual's wife also appeared honest and forthright during her testimony. The individual's wife acknowledged that she has seen the individual consume alcohol a number of times during their marriage, but not more than two or three drinks on any one occasion. Tr. at 124. The individual's wife testified that the individual's drinking has never caused a difficulty in their marriage, and that she has seen no indication of the individual drinking habitually to excess or having a drinking problem. Tr. at 120, 122-23. The individual's wife drinks very little, and was completely supportive of the individual's decision to stop drinking in July 2005 following the visit to his friends, particularly since she had become pregnant with their first child. Tr. at 129. The individual's wife confirmed that she has not seen the individual consume any alcohol since that time. Tr. at 124.

Finally, the individual's mother was equally persuasive in describing how the individual has matured since his college years and become a responsible church leader, and a devoted husband and expectant father. Tr. at 134-37. According to the individual's mother, the individual became "a different person and wanted to make different choices." Tr. at 137. The individual's mother has a close relationship with both the individual and his wife, and confirmed that the individual's wife has never complained to her about the individual's drinking. Tr. at 141-42. The individual's mother also has a close relationship with the Family Friend, and believes that the individual has "accountability structures" in place to ensure that he will not return to using illegal drugs or excessive use of alcohol. Tr. at 142. The individual's mother, and friends who testified or submitted an affidavit, corroborated that they have not seen the individual drink excessively in recent years. Tr. at 15-17, 138-39; Ind. Exh. 10.

Based upon the weight of the evidence and testimony presented in this case, I have concluded that the individual has adequately mitigated the concerns of DOE Security under Criterion J. Having fully considered this matter, I am drawn to the conclusion of the Individual's Psychiatrist that while there may have been isolated incidents of binge drinking by the individual, ending in August 2004, the record does not support a finding that the individual was "a user of alcohol habitually to excess" in recent years. Moreover, I find that the individual has matured substantially since his college years when he admittedly abused alcohol, and now has a stable lifestyle with family, social and religious structures in place that provide a safeguard against the individual returning to any form of problematic drinking.

## B. Criterion L, Unusual Conduct

Under Criterion L, the Notification Letter cites the individual's excessive use of illegal drugs ending in 2001,<sup>5/</sup> and the two incidents of theft described in the factual summary. According to the Notification Letter, these matters raise serious questions about the individual's honesty, reliability and trustworthiness.<sup>6/</sup> Again, however, I am persuaded that the individual has overcome the associated security concerns. For the reasons discussed in the preceding section of this Decision, I find that the individual has become a more responsible person, and is now firmly committed to his family responsibilities and religious and moral convictions. The individual has dealt openly and honestly with his past illicit behavior, and I believe the individual now can be trusted to act in a manner consistent with the best interests of national security.

## III. Conclusion

As explained in this Decision, I find that DOE Security properly invoked 10 C.F.R. §§ 710.8(h), (j) and (l) in suspending the individual's access authorization. For the reasons I have described above, I find that the individual has sufficiently mitigated the associated security concerns. I therefore find that granting the individual an access authorization would not endanger the common defense and security and would be consistent with the national interest. Accordingly, I find that the individual should be granted an access authorization. The Manager of the DOE Operations Office or the Office of Security may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Fred L. Brown  
Hearing Officer  
Office of Hearings and Appeals

Date: February 6, 2006

---

<sup>5/</sup> Although the individual initially made the commitment to stop using illegal drugs in 2000, the individual admitted to the DOE Psychiatrist that he had one final incident of smoking marijuana in 2001, prior to getting married. DOE Exh. 5 at 23.

<sup>6/</sup> The DOE Psychiatrist and the Individual's Psychiatrist concur that the individual is rehabilitated from his past use of illegal drugs. *See* DOE Exh. 5 at 33; Ind. Exh 1 at 4. DOE Security, accordingly, did not raise security concerns in the Notification Letter under 10 C.F.R. § 710.8(k), relating to the individual's past use of illegal drugs and other controlled substances.